

AMENDED IN SENATE JULY 10, 2003

AMENDED IN SENATE JULY 2, 2003

AMENDED IN ASSEMBLY MAY 5, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 638**

**Introduced by Assembly Member Longville**

February 19, 2003

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An act to add Section 14602.8 to the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 638, as amended, Longville. Vehicles: impoundment.

Existing law provides that a peace officer or, in certain other cases, a magistrate, may cause the removal and seizure of a vehicle, under certain circumstances, as specified. Existing law provides that a vehicle so seized may be impounded for 30 days.

This bill would authorize a peace officer to immediately cause the removal and seizure of a vehicle from a person who meets certain circumstances relating to driving a motor vehicle while under the influence of alcohol or drugs, or both, and who has been previously convicted of driving under the influence within the preceding 7 years. The bill would provide for a 15-day impoundment of that vehicle, subject to a hearing and certain exceptions.

The bill would prescribe procedures to be followed for the release of the vehicle prior to the end of the impoundment period, including a requirement that a legal owner who has obtained possession of the impounded vehicle not relinquish the vehicle to the registered owner

until after the termination of the impoundment period and until after the registered owner has presented a valid driver's license or valid temporary driver's license to the legal owner. Because a violation of that requirement and certain other requirements and restrictions imposed by the bill would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 14602.8 is added to the Vehicle Code,  
2 to read:

3 14602.8. (a) (1) Whenever a peace officer determines that  
4 a person has been convicted of a violation of Section 23140,  
5 23152, or 23153 and the violation occurred within the preceding  
6 seven years, and that one or more of the following circumstances  
7 applies to that person, the officer may immediately cause the  
8 removal and seizure of the vehicle that the person was driving,  
9 under any of the following circumstances:

10 (A) The person was driving a vehicle with 0.10 percent or  
11 more, by weight, of alcohol in his or her blood.

12 ~~(B) The person is under 21 years of age, and was driving a~~  
13 ~~vehicle with 0.01 percent or more, by weight, of alcohol in his or~~  
14 ~~her blood.~~

15 ~~(C)~~

16 (B) The person who was driving a vehicle refused to submit to  
17 or complete a chemical test requested by the peace officer.

18 (2) A vehicle impounded pursuant to paragraph (1) shall be  
19 impounded for 15 days.

20 (3) The impounding agency, within two working days of  
21 impoundment, shall send a notice by certified mail, return receipt  
22 requested, to the legal owner of the vehicle, at the address obtained  
23 from the department, informing the owner that the vehicle has

1 been impounded. Failure to notify the legal owner within two  
2 working days shall prohibit the impounding agency from charging  
3 for more than 10 days' impoundment when the legal owner  
4 redeems the impounded vehicle. The impounding agency shall  
5 maintain a published telephone number that provides information  
6 24 hours a day regarding the impoundment of vehicles and the  
7 rights of a registered owner to request a hearing.

8 (b) The registered and legal owner of a vehicle that is removed  
9 and seized under subdivision (a) or their agents shall be provided  
10 the opportunity for a storage hearing to determine the validity of,  
11 or consider any mitigating circumstances attendant to, the storage,  
12 in accordance with Section 22852.

13 (c) Any period in which a vehicle is subjected to storage under  
14 this section shall be included as part of the period of impoundment  
15 ordered by the court under Section 23594.

16 (d) (1) An impounding agency shall release a vehicle to the  
17 registered owner or his or her agent prior to the end of 15 days'  
18 impoundment under any of the following circumstances:

19 (A) When the vehicle is a stolen vehicle.

20 (B) When the vehicle is subject to bailment and is driven by an  
21 unlicensed employee of a business establishment, including a  
22 parking service or repair garage.

23 (C) *When the driver of the vehicle is not the sole registered*  
24 *owner of the vehicle and the vehicle is being released to another*  
25 *registered owner of the vehicle who agrees not to allow the driver*  
26 *to use the vehicle until after the end of the 15-day impoundment*  
27 *period.*

28 (2) A vehicle may not be released pursuant to this subdivision  
29 without presentation of the registered owner's or agent's currently  
30 valid driver's license to operate the vehicle and proof of current  
31 vehicle registration, or upon order of a court.

32 (e) The registered owner or his or her agent is responsible for  
33 all towing and storage charges related to the impoundment, and  
34 any administrative charges authorized under Section 22850.5.

35 (f) A vehicle removed and seized under subdivision (a) shall be  
36 released to the legal owner of the vehicle or the legal owner's agent  
37 prior to the end of 15 days' impoundment if all of the following  
38 conditions are met:

39 (1) The legal owner is a motor vehicle dealer, bank, credit  
40 union, acceptance corporation, or other licensed financial

1 institution legally operating in this state or is another person, not  
2 the registered owner, holding a security interest in the vehicle.

3 (2) The legal owner or the legal owner's agent pays all towing  
4 and storage fees related to the seizure of the vehicle. A lien sale  
5 processing fee may not be charged to the legal owner who redeems  
6 the vehicle prior to the 10th day of impoundment. The impounding  
7 authority or any person having possession of the vehicle may not  
8 collect from the legal owner of the type specified in paragraph (1),  
9 or the legal owner's agent any administrative charges imposed  
10 pursuant to Section 22850.5 unless the legal owner voluntarily  
11 requested a poststorage hearing.

12 (3) The legal owner or the legal owner's agent presents either  
13 lawful foreclosure documents or an affidavit of repossession for  
14 the vehicle, and a security agreement or title showing proof of  
15 legal ownership for the vehicle. All presented documents may be  
16 originals, photocopies, or facsimile copies, or may be transmitted  
17 electronically. The impounding agency may not require a  
18 document to be notarized. The impounding agency may require  
19 the agent of the legal owner to produce a photocopy or facsimile  
20 copy of its repossession agency license or registration issued  
21 pursuant to Chapter 11 (commencing with Section 7500) of  
22 Division 3 of the Business and Professions Code, or to  
23 demonstrate, to the satisfaction of the impounding agency, that the  
24 agent is exempt from licensure pursuant to Section 7500.2 or  
25 7500.3 of the Business and Professions Code.

26 Administrative costs authorized under subdivision (a) of  
27 Section 22850.5 may not be charged to the legal owner of the type  
28 specified in paragraph (1), who redeems the vehicle unless the  
29 legal owner voluntarily requests a poststorage hearing. A city,  
30 county, city or county, or state agency may not require a legal  
31 owner or a legal owner's agent to request a poststorage hearing as  
32 a requirement for release of the vehicle to the legal owner or the  
33 legal owner's agent. The impounding agency may not require any  
34 documents other than those specified in this paragraph. The  
35 impounding agency may not require any documents to be  
36 notarized.

37 As used in this paragraph, "foreclosure documents" means an  
38 "assignment" as that term is defined in subdivision (o) of Section  
39 7500.1 of the Business and Professions Code.

(g) (1) A legal owner or the legal owner's agent that obtains release of the vehicle pursuant to subdivision (f) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner, unless the registered owner is a rental car agency, until after the termination of the 15-day impoundment period.

(2) The legal owner or the legal owner's agent may not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license to the legal owner or the legal owner's agent. The legal owner or the legal owner's agent shall make every reasonable effort to ensure that the license presented is valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining custody of the vehicle.

(h) (1) A vehicle removed and seized under subdivision (a) shall be released to a rental car agency prior to the end of 15 days' impoundment if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure of the vehicle.

(2) The owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the vehicle. However, the rental car agency may not rent another vehicle to the driver of the vehicle that was seized until 15 days after the date that the vehicle was seized.

(3) The rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining custody of the vehicle.

(i) Notwithstanding any other provision of this section, the registered owner, and not the legal owner, shall remain responsible for any towing and storage charges related to the impoundment, any administrative charges authorized under Section 22850.5, and any parking fines, penalties, and administrative fees incurred by the registered owner.

1 (j) The impounding agency is not liable to the registered owner  
2 for the improper release of the vehicle to the legal owner or the  
3 legal owner's agent provided the release complies with this  
4 section.

5 SEC. 2. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section 17556 of  
11 the Government Code, or changes the definition of a crime within  
12 the meaning of Section 6 of Article XIII B of the California  
13 Constitution.

